IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5324 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CHALASANA DUDH UTPATHAK SAHAKARI MANDLI LTD

Versus

RAMJIBHAI JAYMALBHAI RABARI C/O MEHSANA JILLA SAHAKARI

Appearance:

MR PC MASTER for Petitioner

MR PK JANI for Respondent

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 24/08/2000

ORAL JUDGEMENT

#. The petitioner challenges the award of the Labour Court, Kalol whereby the petitioner-cooperative society is ordered to reinstate the respondent with back-wages from the day the respondent entered the witness-box in

the original Reference Case. The award is challenged on mainly on the ground of it being perverse. According to the petitioner, the respondent had resigned from service and submitted a written resignation which was duly accepted by the petitioner. It is vehemently argued that as against the denial by the respondent of the signature on the resignation, the petitioner has examined two witnesses confirming the signature of the respondent on the alleged written resignation. It is further submitted that despite the respondent having been offered to resume his duties during the pendency of the Reference, the respondent had failed to resume his duties. On this basis, it is contended that the respondent was not entitled to either reinstatement or back-wages.

#. Going through the impugned award and copies of the deposition of the witnesses submitted along with the petition, it appears that the respondent-workman has categorically denied the factum of having signed the letter of resignation or ever having an intention of resigning from the service. The respondent has not examined any witness who could be said to be an expert in verification of signatures. Even otherwise the respondent has deposed that he is illiterate and therefore, the execution of the alleged resignation is doubtful. In these circumstances, after appreciation of evidence and considering the material on record, the learned Judge of the Labour Court has reached a finding of fact that the respondent had not resigned from his service. Even after going through the evidence, the petitioner has failed to substantiate its contentions about the genuineness of the resignation. It is submitted on behalf of the respondent that, as it clearly appears from the record, the workman had attempted to resume his duties during the pendency of the Reference, but he was not allowed to do so. In these circumstances, no case is made out to interfere with the impugned award and order. Hence, the petition is dismissed with no order as to costs. Rule is discharged.

(D.H. Waghela, J.)

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